THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6691 OF 2006

DATED: 04-04-2006

BETWEEN

Ch. G. S. Satyanarayana,

S/o. Sesharao, Occ: Sarpanch,

Madicherla Gram Panchayat,

Bapulapadu Mandal,

Krishna District.

...PETITIONER

AND

The District Collector,

Panchayat Wing,

Krishna District,

Machilipatnam

and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the proceedings bearing Roc.No.1913/05 Panchayat II dated 16.03.2006 of the first respondent as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner was elected as Sarpanch of Madicherla Gram Panchayat on 20.08.2001 for a term of five years. While so, the District Collector, Panchayat Wing passed the impugned order dated 16.03.2006 in Roc.No.1913/2005 Pts.2 declaring that the petitioner incurred disqualification under Section 20-B of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act') as he failed to get the accounts of the Gram Panchayat audited for the year 2004-05 before 31.12.2005 and he was directed to hand over the charge to the Upa Sarpanch.

No doubt, under Section 20-B of the Act a Sarpanch shall cease to hold office if he fails to get the accounts of the Gram Panchayat audited within the period as required under the proviso to sub-section (3) of Section 266 of the Act. In the instant case the accounts of the Gram Panchayat for the year 2004-05 has to be audited before 31.12.2005. Under Section 22(1) of the Act the competent authority to decide the question of disqualification of a Sarpanch or a member is only the District Court on an application of any member, the Executive authority at the direction of the Gram Panchayat or the Commissioner within a period of two months from the date on which such intimation is given or doubt is entertained. Therefore, I am of the opinion that the District Collector, Panchayat Wing, is not the competent authority to decide the question of disqualification of the petitioner incurred under Section 20-Bof the Act.

Learned counsel for the petitioner placed reliance on a Division Bench judgment of this Court in **CHAVA ROSAIAH v. CHINTAKA VENKATESWARLU** wherein in similar facts and circumstances the appeal was allowed setting aside the impugned order for taking appropriate action in accordance with Section 22 of the Act.

Following the aforesaid judgment, the writ petition is allowed setting aside the impugned order keeping it open either for the executive authority at the direction of the Gram Panchayat or

the Commissioner or any other Member to apply to the District Court to decide the question of disqualification incurred by the petitioner under Section 20-B of the Act.

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V. ESWARAIAH, J

April 4, 2006

Note: Furnish C.C. of the order by 06.04.2006

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DSK